

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

WILLIAM GIPSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:17cv498-MHT
)	(WO)
HYUNDAI POWER TRANSFORMERS)	
USA, INC.,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court on the magistrate judge's recommendation on defendant Hyundai Power Transformers USA, Inc.'s motion to strike. With regard to the question of plaintiff William Gipson's failure to disclose James Chew as a potential witness, the court agrees with the magistrate judge that the motion should be denied. With regard to all other aspects of the motion, which mainly concern whether evidence is hearsay and admissible, the court, in resolving the pending summary-judgment motion, has implicitly

considered the motion as a notice of objections to the testimony described and has considered any related briefs as arguments on the objections. See *Norman v. Southern Guar. Ins. Co.*, 191 F. Supp. 2d 1321, 1328 (M.D. Ala. 2002) (Thompson, J.); *Anderson v. Radisson Hotel Corp.*, 834 F. Supp. 1364, 1368 n.1 (S.D. Ga. 1993) (Bowen, J.). The court is capable of sifting evidence, as required by the summary-judgment standard, without resorting to an exclusionary process, and the court will not allow the summary-judgment stage to degenerate into a battle of motions to strike. The magistrate judge's recommendation will be rejected as moot in these remaining aspects, and the motion to strike will be denied as moot in these remaining aspects.

It is ORDERED that:

(1) The parties' objections (doc. nos. 114 and 115) to the magistrate judge's recommendation are sustained in part and overruled in part.

(2) The magistrate judge's recommendation (doc. no. 110) is adopted as to plaintiff William Gipson's failure to disclose James Chew as a potential witness, and the recommendation is rejected as moot in all other respects.

(3) Defendant Hyundai Power Transformers USA, Inc.'s motion to strike (doc. no. 92) is denied as to plaintiff Gipson's failure to disclose James Chew as a potential witness, and the motion is denied as moot in all other respects.

DONE, this the 8th day of July, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE